

**From:** jnewellsenior@comcast.net  
**To:** Mary Lu Newell <mliris12@comcast.net>  
**Sent:** Friday, April 24, 2009  
**Subject:** Annual meeting

I believe its my individual and the Master Board's fiduciary responsibility to inform all Owners of the critical situations that puts everyone in jeopardy from a legal and insurance risk

- the lack of approval of the Master Restated CC&Rs by the other Associations.

This problem has been going on for about the last 2 years and the Master and North Boards cannot come to an agreement.

This has to change! The main issues are relative to the Master and North, but the approval of the Master Restated CC&Rs is required by all the Associations.

The North Board has specifically declined to approve the Master Restated CC&Rs (In fact no other Association has approved them - Master has been stuck dealing with the North.)

Having the CC&Rs between Associations in limbo leaves all of us open to risks from legal and insurance issues. This is because of differences in the original Master CC&Rs that are amended and consolidated in the original CC&Rs of the North and South and the North's Restated CC&Rs vs Master's Restated CC&Rs.

In my opinion, the Annual meeting is the appropriate place to present these discussions and get owners opinion to guide the Boards in making decisions.

**In order to get the Asphalt work going, I recommend that Master propose in the meeting that the Boards agree to Mandatory Arbitration to resolve this issue. Any Board that does not agree should present their position on why they need to delay the asphalt effort.**

The current critical issue in question is who pays for tree root damage to the roads and parking areas, etc. Its only been in the last 5 years, since the last asphalt work, that the North trees have grossly damaged the asphalt. North's position is that they have never had to pay for asphalt maintenance and they are not going to pay for it now . Note: their own initial CC&Rs specifically state that they were responsible for the parking areas where the majority of tree root damage is occurring.

Apparently they changed their Restated CC&RS to a more nebulous asphalt responsibility - can they do this and essentially put more responsibility on Master w/o Master approval?.

The agreement with the lawyer at the start of the restatement work conforms with North's initial CC:&Rs and specifically states that Master is not responsible for the parking areas.

California law indicates that the owner of the tree is responsible for damages.

North's own rules indicate that the Owner of a tree is responsible for its damages, etc. But North ignores this relative to asphalt damages.

Master's Restated CC&Rs added the parking areas from a limited standpoint - Master would do the standard maintenance of slurry covering of all asphalt. They would also repair the damages from tree roots and subsidence as required, but the costs would be charged back to the Association causing the damages.

This addresses the situation that the asphalt work needs one Association to do the work, but that each association needs to pay for their own asphalt damages - roads/parking/path.

Master's addition of the slurring of the parking areas is reasonable in that the parking areas are essentially proportional to the ratio of owners between the North and South.

The North has over 8x the number of trees than the other Associations that can cause damage to the roads/parking/path. These are the trees causing the large majority of the asphalt/road damage.

This large factor in number of trees potentially causing damage to asphalt was one reason why Master declined to add this cost to their CC&Rs - it is unfair to the Master Owners from the South and Seniors to pay for North specific damages.

Jim Newell

Note: I'm sending this to the South Board as well as Master. I don't have the North's board emails and assume that Greg or Paul can send it to them. North is well aware of the details of the issue. The South has not been privy to much of this and needs to be apprised to come up to speed with the issues and consider their approval of Master CC&Rs, etc.